



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

B-33911 ✓
B-62187

July 15, 1948.

The Honorable,

The Secretary of Agriculture.

My dear Mr. Secretary:

I have your letter of July 6, 1948, as follows:

"In your decision B-33911 of May 5, 1943, you held that the appropriations of the Forest Service were not available for the removal of inductive interference to Forest Service telephone lines occasioned by the installation of permitted power lines crossing national forest land. (See also decision B-62187 dated December 3, 1946.)

"Because of complications resulting from this decision relating to the installations of power lines by organizations financed by loans from the Rural Electrification Administration, this Department concluded that it would be desirable to have Congressional authority to use funds appropriated to the Forest Service for the removal of inductive interference caused by such power lines, as a means of facilitating another activity of the Department.

"With this purpose in view, the matter was presented to the sub-committee of the Senate Committee on Appropriations as shown on pages 938-941 of the hearings before that subcommittee on H.R. 5883, the Agricultural Appropriation Bill for the F.Y. 1949.

"As a result of this presentation, the Senate Appropriations Committee, in its report on the above measure made the following statements:

"It is the intent of the committee that the Forest Service may use a portion of the funds appropriated to it to reduce inductive interference on its telephone lines caused by REA electric lines."

"No dissent to this view as adopted by the Senate was manifest so that it is presumed that the Congress has in effect authorized the use of Forest Service funds for the purpose indicated. It will

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be noted that, as recommended by this Department, this applies only to installations financed by loans from the Rural Electrification Administration.

"In view of this action by Congress, it is requested that you inform this Department whether your decision referred to above may now be modified as it relates to inductive interference caused by power lines installed under permit to organizations financed by loans from the REA.

"Since a number of projects are being held up until this question is settled, your early consideration will be appreciated."

In the decision of May 5, 1943, B-33911, referred to by you, in response to the question whether the funds of the Forest Service could be used for the removal of inductive interference with the Forest Service telephone lines caused by the transmission lines of private facilities, it was stated:

"Hence, it may be concluded that since there is no specific provision in the law for expenses of the nature here involved to be borne by the Government, there is no authority to charge funds appropriated for the protection and management of national forests therewith—regardless of whether the Government facilities were erected prior or subsequent to the grant or whether the grant be in the form of an easement, license, or permit and even though the terms of the grant require the payment of an annual fee or charge for the right or privilege conferred therein.

"Moreover, unless and until there shall have been delegated to the Department of Agriculture by the Congress specific authority to determine that under the facts of a given situation the public interests as a whole would be best served by the use of appropriated moneys to correct any such interference, such matters would appear properly for legislative rather than administrative consideration."

In decision of December 3, 1946, B-62187, also referred to by you, after stating the substance of the prior decision, supra, it

was held:

"However, it is understood that in the present case the determination of the Forest Service to metallicize its telephone lines in the area here involved was prompted by reasons of expediency wholly unconnected with the prevention or correction of inductive interference from electric power transmission lines. In that situation, the said decision of May 5, 1943, would appear not for application* *."

There has been considered, in addition to the statement in Senate Report No. 1283 of the Committee on Appropriations, quoted in your letter, the discussions relative to this matter during the hearings before said Senate Committee. Reference was made to the fact that the question recently was taken up with representatives of this Office who agreed to reconsider the availability of the appropriation on the basis of the legislative record but who refused to give any assurance as to the conclusion. It is my understanding that at the time of such informal consideration it was pointed out that the only sure way to correct the situation would be to secure specific language in the appropriation act itself authorizing expenditures for the purpose desired.

Of course, technically and as a general proposition, an expression of views in a report of a Congressional committee would not make available for certain purposes an appropriation which previously had been construed as not extending to those purposes. If the law does not authorize the expenditure of public moneys for a thing, it is not within the power of a committee of the Congress, acting alone, to provide the authority. The law itself must be changed.

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However, I recognize that in the present instance the request for legislative action was not made until after the bill had been considered by the House Committee on Appropriations. Also, it is a fact that the plain and unequivocal statement in the Senate report appeared prior to final action on the bill on the floors of Congress. Accordingly, you may be advised that, under the circumstances here, this Office will not object to expenditures from the appropriations of the Forest Service for the fiscal year 1949 for the purposes approved by the Senate Committee. However, for the fiscal 1950, and thereafter, specific authority in the appropriation or other law will be required.

Respectfully,

(S) (acknowledged)
Comptroller General
of the United States